

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Derek Lionel Guess, #264168,)	C/A NO. 9:08-151-CMC-GCK
)	
Plaintiff,)	
)	ORDER
v.)	
)	
South Carolina Department of Corrections;)	
Ofc. Shanon Dean; Sgt. Norberto Mendez;)	
Lt. NFN Adams; Cpt. Daniel W. Dubose;)	
and Captain NFN NLN,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff's *pro se* complaint, filed in this court pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge George C. Kosko for pre-trial proceedings and a Report and Recommendation ("Report"). On February 7, 2008, the Magistrate Judge issued a Report recommending that the South Carolina Department of Corrections be dismissed from this action based upon Eleventh Amendment immunity. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff filed objections to the Report on February 13, 2008.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by

the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. The South Carolina Department of Corrections is dismissed from this matter without prejudice and without issuance and service of process. This matter is recommitted to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
February 13, 2008

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